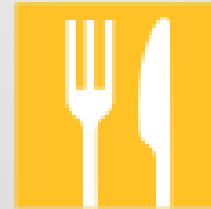


Colorado Employment Law Updates for Restaurant Owners

Essential compliance information for tipping, wages, leave, and labor law changes affecting your restaurant business in 2026.



COLORADO
RESTAURANT
ASSOCIATION

Background on us ...



Micah Dawson

Partner in Denver

15+ years doing national restaurant work



Jessica Reed-Baum

Associate in Denver

7 years doing national restaurant work

What is New for 2026



FAMLI Program Changes

12

Additional Weeks

NICU Leave

Senate Bill 25-144 provides critical support for families facing neonatal intensive care challenges

- Twelve additional weeks of paid family leave available
- Applies to children receiving inpatient NICU care
- Takes effect January 1, 2026

0.88

New Premium

Premium Adjustments

Premium rates decrease slightly in 2026 with future flexibility built in

- Premium reduces from 0.9% to 0.88% of wages
- Future premiums set annually by the state
- Maximum cap established at 1.2% per employee

NICU

Qualifying Care

Program Impact

These changes balance enhanced family support with sustainable program financing

- Expanded coverage for families in medical crisis
- Reduced financial burden on employers and employees
- Maintains long-term program sustainability through flexible pricing

2026

Effective Year

Wage and Hour Enforcement

House Bill 25-1001

Comprehensive amendments to Colorado wage and hour laws significantly expand worker protections and employer responsibilities, with implementation beginning August 2025



Expanded Employer Definition

Individuals with 25% or more ownership interest now included unless authority fully delegated



Higher Claim Limits

Administrative claim cap increases from \$7,500 to \$13,000 starting July 2026



Public Transparency

CDLE must publish wage violation information and report to licensing agencies

WHY IS THIS SCARY?

<p>DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St., #100 Centennial, Colorado 80112</p> <p>PLAINTIFF: TARA GRIFFIN, individually and on behalf of all similarly situated persons</p> <p>v.</p> <p>DEFENDANT: JASON LESSNAU</p>	<p>Δ COURT USE ONLY Δ</p>
<p>Attorneys for Plaintiff:</p> <p>Brian D. Gonzales, Atty. Reg. # 29775 BRIAN D. GONZALES, PLLC 2580 East Harmony Road, Suite 201 Fort Collins, Colorado 80528 Telephone: (970) 214-0562 BGonzales@ColoradoWageLaw.com</p> <p>Alexander Hood, Atty Reg. # 42775 HOOD LAW OFFICE, PLLC 1312 17th Street # 1028 Denver, Colorado 80202 Telephone: (720) 381-4142 Alex@HoodLawPLLC.com</p>	<p>Case Number:</p> <p>Ctrm/Div:</p>
<p align="center">CLASS ACTION COMPLAINT</p>	

Tara Griffin, by and through undersigned counsel, individually and on behalf of all others similarly situated, files this *Class Action Complaint* against Defendant Jason Lessnau (“Defendant”).

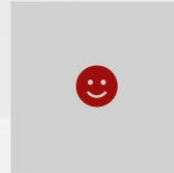
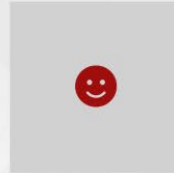
STATEMENT OF THE CASE

1. The Colorado Wage Claim Act, C.R.S. § 8-4-101, *et seq.* (the “Wage Claim Act”) and the Colorado Minimum Wage Act, C.R.S. § 8-6-101, *et seq.*, as implemented by the Colorado Minimum Wage Order and/or the Colorado Overtime and Minimum Pay Standards Order (the

Enhanced Worker Protections

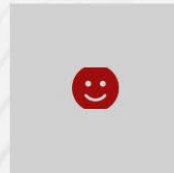
Retaliation Protections Expanded

Coverage extends to contractors in commercial activities; protection for good faith concerns; presumption of retaliation within 90 days; compensatory damages available



Penalty Waiver Provisions

CDLE can waive penalties if employer pays within 14 days of administrative claim, unless prior violations exist



Misclassification Penalties Increased

Willful misclassification fines up to \$5,000 per offense; additional \$10,000 if not remedied within 60 days; repeat violations \$25,000-\$50,000

Local Enforcement Authority

Cities and counties may enact enhanced wage payment laws for work performed within their jurisdiction boundaries

Local Government Tip Offsets

House Bill 25-1208

New requirements for local governments setting minimum wages above state levels, establishing mandatory tip offset provisions and future flexibility for local control



Immediate Requirements

Starting July 1, 2025, local governments must apply \$3.02 tip offset when setting higher minimum wages



Future Local Control

Beginning July 1, 2026, localities can set their own tip offset amounts



Worker Protection Floor

Any tip offset cannot result in wages below state minimum minus \$3.02

Legal Protections for Transgender Individuals



The Kelly Loving Act

House Bill 25-1312 expands legal protections for transgender individuals in Colorado

Effective May 16, 2025, codifying that chosen names can reflect gender expression



Protected Class Expansion

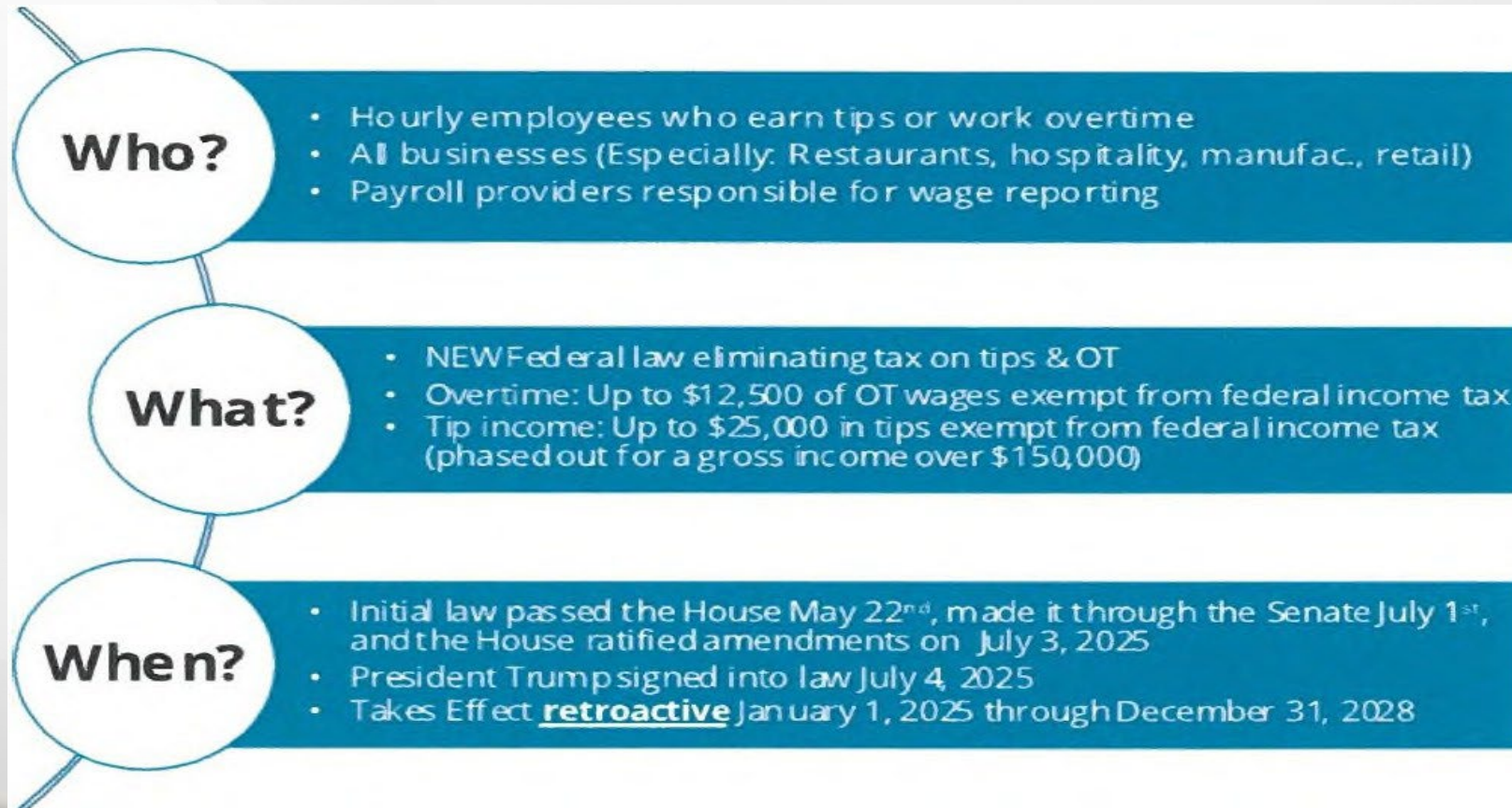
Gender expression formally recognized as a protected class under state law

Ensures legal recognition of chosen names reflecting individual gender identity

“One Big Beautiful Bill Act”

Overview of the OBBBA

aka: No tax on Tips and Overtime



New Details Released – Tipped Wages

- The proposed rule was published in the Federal Register on September 22, 2025, outlining "occupations that customarily and regularly receive tips." A telephonic public hearing followed on October 23, 2025.
- The Treasury Department and IRS released this preliminary list to guide employers and workers in determining eligibility for the new "No Tax on Tips" deduction under OBBBA.
- Final regulations are expected in early 2026.
- Employees and independent contractors may claim an income-tax deduction (up to \$25,000) for qualified tips on their Form 1040 for tax years 2025-2028, subject to phase-outs.
- To calculate qualified tip compensation, individuals may reference Forms W-2, 1099-NEC, 1099-K, 1099-MISC, and/or Form 4137.
- The IRS has provided transition relief for 2025 while employers update reporting systems.

New Details Released – Tipped Wages

- The proposed rule includes a list of occupations and Treasury tip codes eligible for the OBBBA "no tax on tips" deduction.
- The draft 2026 Form W-2 adds a new Box 14b for the Treasury tipped occupation code, starting with tax year 2026.
- Box 12 codes "TP" (Qualified Tips) and "TT" (Overtime compensation) will also be introduced in 2026.
- **Note:** The 2025 Form W-2 and 1099-NEC remain unchanged; the IRS has not yet released the revised 1099-NEC.

3 Reasons Why This Matters for Employers

1. Employees may expect larger paychecks
2. Employers still required to withhold taxes normally
3. Action needed in 2025 to avoid confusion and ensure year-end compliance

2026 Updates and Reminders



CO Minimum Wage Increases for 2026

Updated minimum wage rates effective January 1, 2026, under Colorado Overtime & Minimum Pay Standards (COMPS) Order No. 40. Restaurant owners must ensure compliance with both general and tipped employee rates.

Location	General Minimum Wage	Tipped Minimum Wage	Notes
Colorado Statewide	\$15.16/hour	\$12.14/hour	\$0.35 increase from 2025
Denver City/County	\$19.29/hour	16.27/hour	\$0.48 increase from 2025
City of Edgewater	\$18.17/hour	\$13.50/hour	Increased tip offset to \$4.67/hour
Boulder City/County	\$16.82/hour	\$13.80/hour	\$1.24 increase from 2025

Colorado's Wage Theft Law

Key Penalties

Automatic penalties of 2x unpaid wages or \$1,000 minimum within 14 days of demand

3x unpaid wages or \$3,000 for willful violations

Attorneys' fees allowed

Employees can make demands on behalf of similarly situated workers

POWR Act: Protecting Opportunities and Workers Rights



New Harassment Definition

Removes 'severe or pervasive' standard for any unwelcome conduct



Marital Status as Protected Class

Adds marital status to protected categories under employment law



5-Year Record Keeping Requirement

Mandates retention of personnel records and discrimination complaints for 5 years



Nondisclosure Laminations

voids certain NDAs related to workplace discrimination claims

Healthy Families and Workplaces Act (HFWA)

Key Provisions

All employers must provide paid sick leave:

- 1 hour per 30 hours worked (48 hours maximum)
- Employees can use as accrued
- 48 hour carryforward allowed
- New uses include: bereavement, school closures, weather evacuations
- Not paid out at termination unless employer chooses



Colorado FAMLI Program & Equal Pay Updates

FAMLI

- 12 weeks paid family/medical leave funded by 50/50 employer/employee payroll tax

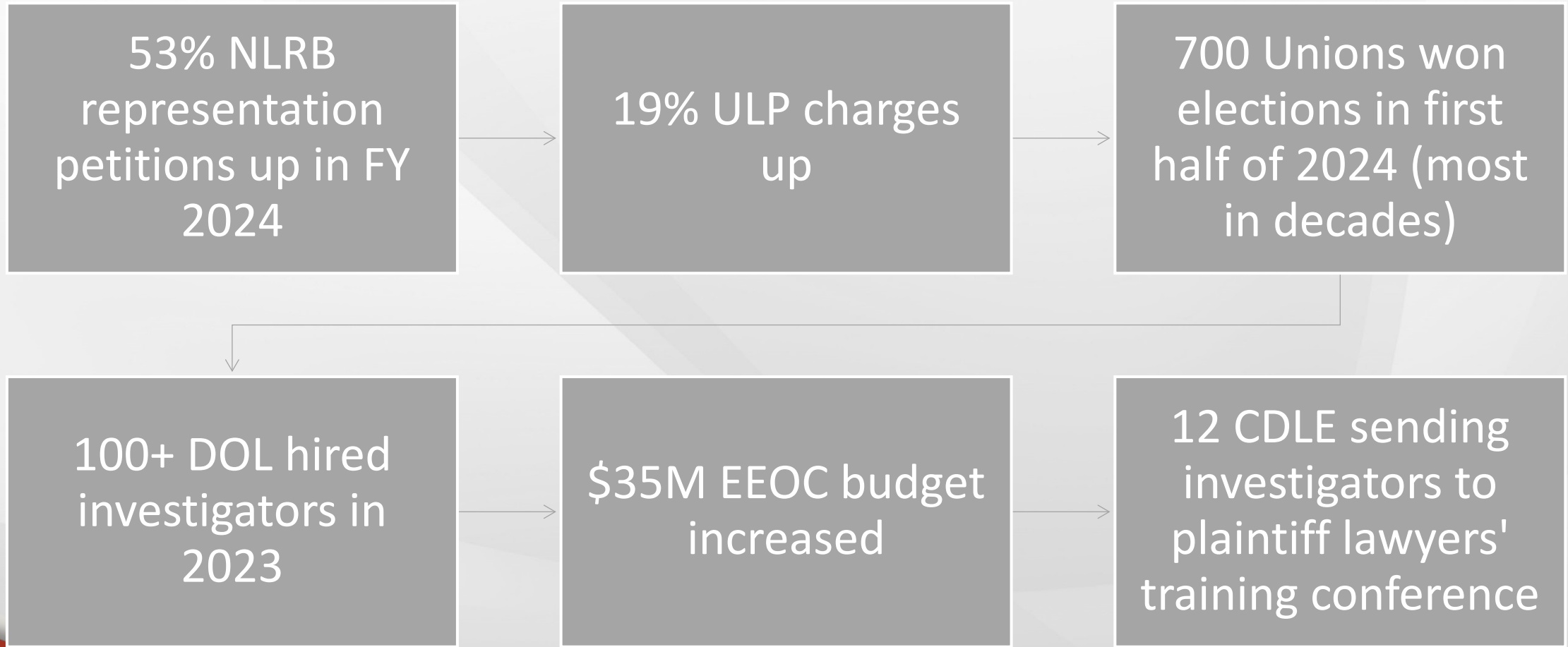
Equal Pay Act

- Salary range disclosure requirements, career progression posting changes

Job Application Fairness Act

- Prohibits age-related questions on initial applications

Federal & State Enforcement Trends



Restaurant Crisis Center



The Restaurant Industry Compliance Crisis

Facing increasingly complex compliance demands with vigorous enforcement and rising litigation



300% Increase

Class Action Lawsuits in Colorado - Dramatic surge in employment-related claims targeting wage and hour violations in the hospitality sector.



150% Increase

ADA Accessibility Lawsuits - Rising wave of Americans with Disabilities Act claims focusing on physical barriers and digital accessibility.



Daily Filings

High-Stakes Lawsuits - Plaintiffs' attorneys aggressively targeting hospitality businesses with serial litigation over technical violations.

Labor & Employment Mistakes Putting Your Restaurant at Risk

Tip Credit Violations

- **Warning:** Failing to properly notify employees about tip credit usage or miscalculating tip credits can lead to significant penalties.

Tip Pool Issues

- **Warning:** Improper tip pooling arrangements that include non-tipped employees or managers violate federal regulations.

Break Law Compliance

- **Warning:** Not providing mandatory meal breaks or rest periods as required by state laws exposes your business to lawsuits.

Accommodation Issues

- **Warning:** Failing to provide reasonable accommodations for disabilities or religious practices violates anti-discrimination laws.

Recent Colorado Court Cases: Rest Break Class Actions

Under Colorado law, every employer **shall authorize and permit** a compensated 10-minute rest period for each 4 hours of work, or major fractions thereof, for all employees.

Employers violate COMPS Order requirements when they **require employees to return to work before their meal periods end or mandate that employees remain on premises during breaks** (*Nolly v. Ameristar Casino Black Hawk, LLC*)

The **two-year and three-year statute of limitations** applies to all rest break violations (*By the Rockies, LLC v. Perez*)

Active enforcement by the Colorado Department of Labor and Employment (*303 Beauty Bar LLC v. Division of Labor Standards and Statistics*).

Tip Credit

New Definition

- Colorado's new definition of tipped employees now requires \$1.64 per hour in tips over a workweek (changed from \$30 per month).

Compliance Requirements

- Employers can't claim tip credits for workers not earning enough direct tips.
- To be clear, positions such as Hostess, Runner, Busser, Server Assistant, etc., need to be reviewed for compliance.

Effective Date

- As of January 1, 2024, tipped employees must receive at least \$1.64 per hour.

The 80/20 Rule for Tip Credit

Critical compliance requirements for maintaining tip credit eligibility under Colorado and federal law. Violations can result in loss of tip credit and full minimum wage requirements.

Scenario	Time Limit	Tip Credit Status	Wage Requirement
Tip-producing work	No limit	Allowed	Tipped minimum wage
Supporting work (side work)	Up to 20% of week	Allowed	Tipped minimum wage
Supporting work continuous	Over 30 minutes	Lost for excess time	Full minimum wage
Supporting work total	Over 20% of week	Lost completely	Full minimum wage

The Tip Pool

Key Actions

- Ensure managers/supervisors stay out of tip pool
- Implement clear tip pool policy
- Establish pre-established tip distribution
- Train management and staff on policies
- Give notice to customers that tips are pooled

Break Requirements

Colorado requires 10-minute rest breaks for employees. Failure to provide proper breaks can result in penalties and lawsuits. Employees must report if unable to take required breaks.

Shift Duration (Hours)	Required 10-Minute Breaks	Comments
0 to < 2	0	No break required for shifts under 2 hours
2 to < 6	1	One break for shifts 2-6 hours
6 to < 10	2	Two breaks for shifts 6-10 hours
10 to < 14	3	Three breaks for shifts 10-14 hours
14 to < 18	4	Four breaks for shifts 14-18 hours

Child Labor and Accommodations

Child labor

- **Know laws in your jurisdiction**
- Audit files for completeness
- Audit time records and duties of minors
- Implement policies
- Train everyone
- Set up fail safes

Accommodations

- Audit accommodation policies and processes
- **Train supervisors to identify requests**
- Proper response procedures

Key Compliance Action Items for Restaurant Owners



Audit tip credit practices and 80/20 rule compliance

Recommended: Conduct quarterly audits of tip allocation and verify compliance with the 80/20 rule for tipped duties.



Review and update tip pool policies

Recommended: Ensure tip pooling policies comply with latest DOL regulations and state-specific requirements.



Implement proper break tracking systems

Recommended: Install automated systems to accurately record employee breaks and meal periods to prevent wage violations.

Key Compliance Action Items for Restaurant Owners



Update handbook policies for new laws

Recommended: Revise employee handbook annually to reflect current federal, state and local labor law changes.



Train management on accommodation procedures

Recommended: Conduct bi-annual training on ADA compliance and religious accommodation request handling protocols.



Establish 5-year record retention system

Recommended: Create organized digital archive for payroll records, timecards and employment documents as required by FLSA.

Questions?



Micah D. Dawson
mdawson@fisherphillips.com



Jessica Reed-Baum
jreed-baum@fisherphillips.com

Colorado Restaurant Association Contact Information

- www.corestaurant.org
- info@corestaurant.org

Thank You



Presented by:

Micah D. Dawson

mdawson@fisherphillips.com

Jessica Reed-Baum

jreed-baum@fisherphillips.com